

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

LAURI VALJAKKA,

Case No. 4:22-cv-01490-JST

Plaintiff,

## **JOINT CASE MANAGEMENT STATEMENT**

Date: November 28, 2023  
Time: 2:00 p.m.  
Judge: Hon. Jon S. Tigar

## NETFLIX, INC.,

Defendant.

## Appearances By Zoom

Plaintiff Lauri Valjakka (“Valjakka”), Defendant Netflix, Inc. (“Netflix”) (collectively “the Parties”), and AiPi, LLC (“AiPi”) currently a non-party, hereby submit this Joint Case Management Statement pursuant to the Court’s Order, Dkt. No. 222.

Counsel for AiPi, Joseph Zito, asked to provide statements in this Statement on behalf of AiPi. Under these unusual circumstances, and because Mr. Valjakka does not oppose AiPi's joinder, Mr. Zito additionally submits statements below on behalf of AiPi.

1                   **I.                   JURISDICTION AND SERVICE**

2                   This is a patent infringement action under the patent laws of the United States, Title 35  
3                   of the United States Code. The Court has subject matter jurisdiction over this action pursuant  
4                   to 28 U.S.C. §§ 1331 and 1338(a) because this action involves claims arising under the patent  
5                   laws of the United States, 35 U.S.C. § 1, *et seq.* This Court has jurisdiction over Netflix's  
6                   CUVTA counterclaim pursuant to 28 U.S.C. § 1367.

7                   AiPi was served with Netflix's Motion For An Order To Show Case and Motion To Join  
8                   AiPi, on November 7, 2023. Dkt. No. 225.

9                   **II.                  FACTUAL BACKGROUND**

10                   **Netflix's Statement**

11                   Netflix originally filed its November 7, 2023 Administrative Motion requesting a Case  
12                   Management Conference ("CMC") to ascertain whether the Parties could work together  
13                   cooperatively to retain the February 2024 trial setting by expediting (1) the requisite CUVTA  
14                   discovery and (2) Netflix's motions (a) for an order to show cause and (b) to join AiPi. *See* Dkt.  
15                   No. 221. Valjakka does not oppose Netflix's Motion For Joinder. Dkt. No. 223. Valjakka  
16                   responded to Netflix's motion for an order to show cause on November 9, 2023, arguing that it is  
17                   moot. Dkt. No. 224. Netflix does not agree. Dkt. No. 228.

18                   *After* Netflix filed its administrative motion requesting a CMC, Mr. Valjakka, the Ramey  
19                   Firm, and AiPi began disclosing new information that suggests (1) the attorneys who represented  
20                   Mr. Valjakka at his recent deposition, Messrs. Zito and Sheets, actually represent AiPi, raising  
21                   questions of conflict, waiver of privilege, and unclean hands, *inter alia*, (2) AiPi and Mr. Valjakka  
22                   are now adverse, and (3) Mr. Valjakka and AiPi are making very different representations to this  
23                   Court, *i.e.*, Mr. Valjakka claims that AiPi has controlled this litigation from the beginning, while  
24                   AiPi represents that AiPi is not a law firm, comprises agents of the Ramey Firm, and does not  
25                   control this litigation in any way, *infra*. Netflix further understands that AiPi intends to argue that  
26                   the Court does not have jurisdiction over AiPi, which may require venue discovery that will delay  
27                   resolution of the joinder motion. AiPi's role in this litigation campaign is material to Netflix's

1 CUVTA counterclaim and its unclean hands affirmative defense. *See* Dkt. No. 191, ¶¶ 100-102.  
2 In addition, Valjakka supplemented its Rule 26 disclosures ***this afternoon*** (November 21). Netflix  
3 will need to depose Valjakka's newly disclosed witnesses.

4 The upshot of these belated disclosures and new positions from Valjakka, the Ramey Firm,  
5 and AiPi, is that Netflix now believes it is not possible to maintain the Court's February 2024 trial  
6 date, at least as to CUVTA and unclean hands. Once the Court resolves the joinder motion, Netflix  
7 should be permitted to take discovery of Valjakka and AiPi pertaining to their roles in this  
8 litigation, Valjakka's fraudulent transfers, and AiPi and Valjakka's unclean hands. For judicial  
9 economy, Netflix believes the various issues should be tried together or *seriatim*. Netflix thus  
10 respectfully proposes a new trial be set six months after the Court resolves the AiPi joinder motion  
11 (or at the Court's earliest convenience thereafter), to allow for appropriate discovery and motion  
12 practice.

13 Valjakka, *infra*, states that CUVTA should be severed, and the Court should maintain the  
14 February 2024 trial date for all non-CUVTA issues. Netflix disagrees. For example, AiPi's role in  
15 this litigation, which is currently disputed by AiPi and will therefore require additional discovery  
16 to ascertain, is material at least to Netflix's unclean hands defense. There is substantial overlap  
17 between Netflix's CUVTA counterclaim and Netflix's unclean hands affirmative defense. If AiPi  
18 and Valjakka conspired to assert patents that Valjakka does not own, if AiPi and Valjakka worked  
19 together to assert patents that Netflix clearly doesn't infringe, these facts all support a finding of  
20 fraudulent transfer *and* unclean hands against AiPi and Valjakka. And, depending on the resolution  
21 of the currently pending summary judgment motions, this Court may choose to try unclean hands  
22 before a trial on the merits given the resultant judicial economies. These are but a few examples  
23 of why the case should not be bifurcated at this stage, and the February 2024 trial should be  
24 rescheduled, six or more months after the Court rules on the AiPi joinder motion, or to a date that  
25 is convenient for the Court.

26 Finally, as explained in Netflix's administrative motion requesting a CMC, it's not clear  
27 that Valjakka has counsel who is admitted in the Northern District and maintains an office in

1 California, as required to sponsor the pro hac vice admission of Mr. Ramey or other lawyers. Dkt.  
 2 No. 221.

3 **Valjakka's Statement**

4 Valjakka respectfully responds that the need for the Show cause Hearing is believed  
 5 obviated because the parties have worked together to ensure there is agreed compliance with the  
 6 Court's Preliminary Injunction Order.

7 Valjakka is aware that the Court enjoined him from selling, using, moving, concealing,  
 8 transferring, or otherwise disposing of any Enforcement Asset in his possession, custody, or  
 9 control from at least September 22, 2023,<sup>1</sup> and was provided a copy of the Court's Preliminary  
 10 Injunction Order no later than November 2, 2023.<sup>2</sup>

11 CDN Licensing and IPRA were made aware of the Court's Preliminary Injunction Order  
 12 on September 22, 2023,<sup>3</sup> and were provided a copy of the Court's Preliminary Injunction Order no  
 13 later than November 2, 2023.<sup>4</sup>

14 All licensees who provided Enforcement Assets were made aware of the Court's  
 15 Preliminary Injunction Order no later than November 6, 2023.<sup>5</sup> Co-counsel, Joe Zito transmitted  
 16 copies to each licensee. Plaintiff understood the Court's Preliminary Injunction Order to apply to  
 17 prior defendants who still owed payment of Enforcement Assets to Valjakka.<sup>6</sup> However, in an  
 18 effort to resolve the issue between the parties, Plaintiff sent the Court's Preliminary Injunction  
 19 Order to all prior Defendants who paid Enforcement Assets.

21 Valjakka and Hietalahti informed its counsel that there are no Enforcement Assets with  
 22 Valjakka or CDN Licensing.<sup>7</sup> Counsel was informed that the Enforcement Assets transferred  
 23 earlier had been spent in the ordinary course of business and for living expenses prior to the Court's

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25 <sup>1</sup> Doc. No. 224-1 at ¶¶2-4.

26 <sup>2</sup> *Id.* at ¶¶2-4.

27 <sup>3</sup> *Id.* at ¶¶2-4.

28 <sup>4</sup> *Id.* at ¶¶2-4.

<sup>5</sup> Ex. C at 1-2, Ramey Decl. at ¶12.

<sup>6</sup> Ex. B at 1-2, 1.

<sup>7</sup> Doc. No. 224-1 at ¶5.

1 Preliminary Injunction Order.<sup>8</sup> Valjakka stated that no further Enforcement Assets were expected  
2 except for this case as it is the only one pending.<sup>9</sup>

3 In a discussion with counsel for Netflix on November 8, 2023, counsel for Valjakka  
4 explained that no Enforcement Assets are in any account of Ramey LLP.<sup>10</sup> All Enforcement  
5 Assets were transferred to AiPi.<sup>11</sup>

6 A bifurcation of the infringement claims from the CUVTA claims is appropriate, with  
7 the infringement claims being decided first. While there may be some common factual issues,  
8 the juries consideration of both the infringement claim and the CUVTA claim would be highly  
9 prejudicial to both claims. Valjakka's infringement claims have nothing to do with Netflix's  
10 CUVTA claims and the consideration of both together would likely result in an improper  
11 verdict. The joinder of AiPi further suggests that bifurcation is appropriate as the introduction  
12 of a new party will greatly complicate matters and likely result in an improper verdict. Valjakka  
13 anticipates filing its motion to bifurcate, if necessary, after the summary judgment hearing on  
14 November 30, 3023.

15 As a procedural matter, bifurcation is also appropriate as there are multiple claims and  
16 issues that must be decided prior to consideration of the CUVTA claims, including (1) there  
17 must be a prevailing party (and for the CUVTA issue to proceed, it must be Netflix); (2) there  
18 must a be a Section 285 Motion filed for the recovery of attorneys' fees; (3) the Court must find  
19 the case is exceptional; and, (4) the Court must find the case warrants an award of fees to the  
20 prevailing party. Only after all of these issues are decided would the CUVTA claim be  
21 appropriate for trial.

22 As an additional issue, Valjakka has recently become aware that its attorneys at  
23 Whitestone Law have begun to represent AiPi. Valjakka does take issue with Whitestone Law  
24 and its attorneys representing AiPi, including Joe Zito, as they are Valjakka's attorneys, even

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27 <sup>8</sup> *Id.* at ¶5.

28 <sup>9</sup> *Id.* at ¶6.

<sup>10</sup> Doc. No. 224-1 at ¶¶9-10.

<sup>11</sup> *Id.* at ¶9.

defending him in one deposition and handling the initial production of discovery in the CUVTA matter. Joe Zito, with Whitestone Law, did enter an appearance on behalf of Valjakka but later tried to withdraw it. Valjakka anticipates filing a motion to disqualify Whitestone Law based on the conflict.

Valjakka has reason to believe that Whitestone Law was acting on behalf of AiPi when it failed to produce documents that he and representatives of CDN provided for production necessitating Netflix to file its Motion to Show Cause. When Valjakka discovered that Whitestone had not produced all of its documents, Ramey LLP was provided the documents and asked to produce them to Netflix. Valjakka previously requested Whitestone to produce all of the documents but it failed to do so.

Valjakka is filing an amended disclosure of people with knowledge of relevant facts listing Onni Hietalahti and Matti Saraheimo. These individuals have knowledge of the new issues raised by Netflix.

## AiPi's Statement

AiPi is managing third party funding for Valjakka. AiPi, is not in control of Valjakka's litigation against Netflix. AiPi is not in control of Valjakka in any manner. AiPi is not a law firm and does not provide legal services. AiPi, as stated on its website, provides litigation support services to lawyers. AiPi provides litigation support services to the Ramey law firm and to Mr. Ramey in support of his actions and in support of the actions of his local counsel Ms. Susan Klara. The Agreement between AiPi and Mr. Valijaka specifically states that AiPi is not providing legal services. The Agreement between AiPi and Valjakka is not privileged because it is not an attorney client relationship, and as such has been voluntarily produced pursuant to a telephone call between Netflix's counsel and Mr. Zito. Mr. Zito is not co-counsel in this matter. Mr. Zito did not transmit copies of anything to anyone, Mr. Ozmen of AiPi transmitted copies of the PI documents to each licensee of Valjakka.

AiPi will oppose Netflix’s Motion for Joinder as baseless, and for lack of subject matter jurisdiction, and for lack of personal jurisdiction and reserves all other objections. AiPi anticipates

1 filing a timely opposition to the Motion for Joinder.

2 Netflix has moved for an order to show cause why Valjakka and his Agents should not be  
3 held in civil contempt for failure to comply with the Court's preliminary injunction ("PI") Order.  
4 As an agent of Valjakka, AiPi falls under the PI and complied fully. However, only Valjakka is a  
5 Party to this action and subject to contempt. To the extent that the Order applies to AiPi, AiPi fully  
6 conformed with all aspects of that Order. AiPi does not anticipate filing any opposition to the  
7 Motion because AiPi is not a party to this matter and has no standing to oppose any motion. It is  
8 anticipated that Valjakka will oppose on behalf of its agents, including AiPi.

9 AiPi is of the position that it is not appropriate to discuss the Motion to Join AiPi at the  
10 CMC, as AiPi is not a party and does not have standing to participate in the CMC. However,  
11 Mr. Zito, will be representing AiPi for the purpose of opposing the Motion to Join and will  
12 attend the CMC at the request of the Court. AiPi contests personal jurisdiction and does not  
13 consent to personal jurisdiction and AiPi's contribution to this CMC is not a waiver of personal  
14 jurisdiction nor a submission to the jurisdiction of this Court. AiPi does not have standing to  
15 contribute to this CMC and thus AiPi is not directly contributing. Counsel for the Parties  
16 reached out to AiPi and stated that because AiPi is related to this matter, they requested the  
17 input of AiPi in this CMC, thus Mr. Zito has executed below as counsel to non-party AiPi to  
18 acknowledge AiPi's indirect contribution. AiPi is not a party to this matter. AiPi maintains the  
19 position that it should not be a party to this matter and reserves all objections to being added as  
20 a party, including personal and subject matter jurisdiction, as well as the lack of any factual or  
21 legal basis to add AiPi.

22 **III. DISPUTED LEGAL ISSUES**

23 For the purpose of the CMC alone, there are no disputed legal issues.

1           **IV. MOTIONS**

2           For the purpose of the CMC alone, the motions to be discussed are:

- 3           (1) Netflix's Motion For An Order To Show Cause. Dkt. No. 216.
- 4           (2) Netflix's Motion To Join AiPi. Dkt. No. 217;
- 5           (3) Netflix's Motion To Strike Valjakka's Answer to Netflix's CUVTA Counterclaim.
- 6           Dkt. No. 214.
- 7           (4) (potential) Valjakka's Motion to Bifurcate CUVTA and Infringement issues.
- 8           (5) Valjakka's motion to disqualify Whitestone Law.

9           In addition, the Court has indicated that it will hear Netflix's Motion for Summary  
10 Judgment (Dkt. 162) on November 30, 2023.

11           **V. AMENDMENT OF PLEADINGS**

12           If Netflix's motion to join is granted, Netflix will file a cross-claim against AiPi.

13           **VI. EVIDENCE PRESERVATION**

14           The Parties have filed a stipulated Protective Order. ECF No. 56.

15           **Netflix's Statement**

16           Netflix timely issued a litigation hold to individuals related to this action.

17           **VII. DISCLOSURES**

18           The Parties served initial disclosures on May 31, 2022, pursuant to Fed. R. Civ. P. 26.  
19 Netflix then served amended initial disclosures on July 1, 2022. AiPi has not yet served initial  
20 disclosures.

21           **VIII. DISCOVERY**

22           **Netflix's Statement**

23           Netflix needs discovery from both Valjakka and AiPi.

24           On September 26, 2023, Netflix served CUVTA discovery upon Valjakka. Valjakka's  
25 responses were inadequate. Netflix has served a letter upon Valjakka, seeking adequate  
26 discovery. Netflix is also preparing a motion to compel under the local rules.  
27

1           Further, ***just last week***, after Mr. Valjakka's CUVTA deposition, Mr. Valjakka served  
2 more than 100 Finnish-language emails upon Netflix. Mr. Valjakka also served amended  
3 discovery responses upon Netflix after his deposition. Netflix requests another deposition of  
4 Mr. Valjakka so that he can be asked about this late-produced discovery.

5           Moreover, ***over the last ten days, after*** Netflix filed a request for a CMC, Mr. Valjakka  
6 and AiPi continue to send emails and other documents that relate to the relationship between  
7 and roles of Valjakka and AiPi. These documents are relevant to CUVTA, unclean hands, and  
8 Netflix's Section 285 attorneys' fees motion. Discovery regarding these newly disclosed  
9 relationships, roles, and documents is necessary.

10          Mr. Valjakka served amended initial disclosures ***today***, November 21, 2023, disclosing  
11 new trial witnesses.

12          **Valjakka's Statement**

13          After receiving Netflix's letter claiming discovery deficiencies on November 11, 2023,  
14 Valjakka immediately had his counsel reconsider producing certain documents withheld during  
15 the initial production. As of November 16, 2023, Valjakka has produced all documents in his  
16 possession or control of which he is aware. Valjakka stands ready to cooperate and produce any  
17 additional information that is deemed relevant and not produced.

18          Valjakka does take issue with Whitestone Law and Joe Zito representing AiPi as they are  
19 Valjakka's attorneys, even defending him in one deposition and handling the initial production  
20 of discovery in the CUVTA matter.

21          **AiPi's Statement**

22          AiPi is not a party to this action and is not a proper party to be added to this action. AiPi,  
23 as an agent of Valjakka, has fully complied with any and all discovery requests to the full extent  
24 that AiPi possessed any documents within its possession, custody or control, as requested by  
25 Valjakka and/or its counsel the Ramey Firm. AiPi has no control over the decision to produce  
26 or not produce documents, that is the decision of counsel for Valjakka. AiPi, as stated above is  
27 a legal support company and has assisted counsel in the production of Valjakka documents, as  
28

1 instructed by counsel, including the collection of documents from Valjakka, the marking of  
2 documents and providing documents to counsel for Defendant, as instructed by counsel for  
3 Plaintiff. In addition, AiPi as a third party is ready and willing to comply with any discovery  
4 requests directed thereto.

5 **IX. CLASS ACTION**

6 This case is not a class action.

7 **X. RELATED CASES**

8 The '167 patent and the '102 patent were also at issue in the following related  
9 proceedings in Western District of Texas: *Valjakka v. Cisco Systems, Inc.*, Case No. 6:21-cv-  
10 00944; *Valjakka v. Amazon.com, Inc. et al.*, Case No. 6:21-cv-00945; *Valjakka v. Apple, Inc.*,  
11 Case No. 6:22-cv-00003; *Valjakka v. Google LLC*, Case No. 6:22-cv-00004; *Valjakka v. Intertrust Tech. Corp.*, Case No. 6:22-cv-00234; *Valjakka v. Philips North America LLC*, Case  
12 No. 6:22-cv-00226; and *Valjakka v. Sony Interactive Entertainment LLC*, Case No. 6:22-cv-  
13 00005. Those proceedings have now settled.

14 Netflix also filed a petition for *inter partes* review of the '167 patent on September 23,  
15 2022. *Netflix, Inc. v. Valjakka*, IPR2022-01568, Paper 2 (P.T.A.B. Sep. 23, 2022) and a petition  
16 for *inter partes* review of the '102 patent on January 3, 2023. *Netflix, Inc. v. Valjakka*, IPR2023-  
17 00423, Paper 2 (P.T.A.B. Jan. 2, 2023).

18 **XI. RELIEF**

19 Netflix seeks (1) compliance with the Court's PI order, (2) joinder of AiPi, and (3)  
20 CUVTA discovery before trial; resetting the trial to a date, at the Court's convenience,  
21 approximately six months after the Court rules on Netflix's motion to join AiPi.

22 **XII. EXPEDITED TRIAL PROCEDURE**

23 The case is currently set for trial on a standard schedule in February 2024.

### XIII. SCHEDULE

Summary judgment motions on the non-CUVTA issues have been submitted and the summary judgment hearing for those issues is November 30, 2023. The pretrial Conference is currently set for 1/12/2024 02:00 PM in Oakland, CA, and a Jury Trial is currently set for 2/5/2024.

## XIV. TRIAL

Both Parties have requested a trial by jury. The Parties expect that a trial for infringement and invalidity will last 3-5 court days. The CUVTA issue will add two days to the schedule. Netflix reserves its right to revise this estimate.

## **XV. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

On April 27, 2022, Valjakka filed a Certificate of Interested Parties and Entities pursuant to Civil Local Rule 3-15. (ECF No. 36).

On April 26, 2022, Netflix filed a Certificate of Interested Parties and Entities pursuant to Civil Local Rule 3-15. (ECF No. 34).

On September 21, 2023, Valjakka filed an Amended Certificate of Interested Parties and Entities pursuant to Civil Local Rule 3-15. (ECF No. 174).

## XVI. PROFESSIONAL CONDUCT

All attorneys of record for the Parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

RAMEY LLP

/s/ Susan S.Q. Kalra  
Susan S.Q. Kalra, CA SBN 167940

*Attorney for Plaintiff Lauri Valjakka*

1  
2 Dated: November 21, 2023  
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BAKER BOTTS, LLP

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6 *Attorneys for Defendant Netflix, Inc.*

7 Dated: November 21, 2023 Respectfully submitted,

8 AiPi, LLC

9 /s/

10 ***Joseph J. Zito***  
***Whitestone LLP***

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